



## USER AGREEMENT

Please read the terms contained in this agreement (hereinafter referred to as the “**Terms of Use**”, “**User Agreement**”) carefully before using the website <https://createandenquire.com> (hereinafter referred to as the “**Website**” or “**Site**”) or its mobile application (hereinafter referred to as “**Application**” or “**App**”). This Agreement sets out legally binding terms of use between the user of this site, **CreateandEnquire**, and its brand **Cosmicantoshka** (hereinafter referred to as the “**Company**” or “**Brand**”). By accessing and/or using the Site and the App the user acknowledges that he/she has read, understood, and agreed to be legally bound by the terms and conditions outlined in this document. If you do not agree to abide by this User Agreement, you are not permitted to access or use the Site / App. All text, graphics, design, content, and other works are copyrighted works of the Company. The Company acknowledges the proprietary rights of third parties displayed on the Site and App.

For this Agreement the terms “we”, “us” or “our”, refer to <https://createandenquire.com> or/and its brand **Cosmicantoshka**. When you use the Service or purchase Products available on the Site or the App, you consent to our collection, use, and disclosure of information about you as described both in this Agreement and Privacy Policy displayed on the Site. Users shall have the same meaning as defined under Section 2 (1) (j) of the Information Technology (Intermediaries Guidelines Rules, 2011). Per the said Rules, the user means any person who accesses or avails any computer resource of the intermediary to host, publish, share, transacting, displaying, or uploading information or views and includes other persons jointly participating in using the computer resources of an intermediary.

### 1. DEFINITION OF PRODUCTS AND SERVICES:

1.1 As a user of the website you have the right to view its content including images displayed therein. You also have the right to order online fine art prints and coffee table books which can be customized based upon your individual’s specifications (hereinafter referred to as “**Products**” and “**Services**”).

1.2 The terms “**Images**” means all visual representations furnished to the user by us, whether captured, delivered, or stored in photographic, magnetic, optical, electronic, or any other media. All Images are “**Licensed Material**” of the Company. The term Licensed Material shall mean means any still Image, film or video footage, audio product, visual representation generated optically, electronically, digitally, or by any other means, including any negatives, transparencies, film imprints, prints, original digital files, or any reproductions thereof, or any other product protected by copyright, trademark, patent or other intellectual property rights, which is licensed to User by Company under the terms of this Agreement.

## **2. TERMS AND CONDITIONS OF USE OF IMAGES:**

2.1 **Use of Images:** Unless otherwise specified on the front of this document, we may deliver, and the user agrees to accept, images encoded in an industry-standard data format that we may select, at a resolution that we determine will be suitable to the subject matter of each image and the reproduction technology and uses for which the image is licensed. It is the user’s responsibility to verify that the digital data (including color profile, if provided) are suitable for the reproduction of the expected quality and color accuracy and that all necessary steps are taken to ensure correct reproduction. If the data are not deemed suitable, our sole obligation will be to replace or repair the data, but in no event will we be liable for poor reproduction quality, delays, or consequential damages. Unless otherwise specifically provided elsewhere in this document, we have no obligation to retain or archive any of the images after they have been delivered to the user. The user is responsible for sending an authorized representative to the assignment or for having an authorized representative review the images remotely during the assignment. If no review is made during the assignment, the user is obligated to accept our judgment as to the acceptability of the images.

2.2 **Rights:** All Images and rights relating to them, including copyright and ownership rights in the media in which the Images are stored, remain the sole and exclusive property of the Company. Unless otherwise specifically provided elsewhere in this document, no image licensed for use on a cover of a publication may be used for promotional or advertising purposes without the express permission of the Company and the payment of additional fees. No rights are transferred to the user unless and until the Company has received payment in full. The parties agree that any usage of any Image without the prior permission of the Company will be invoiced at three times Company’s customary fee for such usage. Unless otherwise specifically provided elsewhere in this document, all usage rights are limited to

print media, and no digital usages of any kind are permitted. This prohibition includes any rights or privileges that may be claimed under the Copyright Act of 1956 or any similar provision of any applicable law. Digital files may contain copyright and other information embedded in the header of the image file or elsewhere; removing and/or altering such information is strictly prohibited and constitutes a violation of the Copyright Act. All fees and expenses payable under this agreement are required irrespective of whether the user makes actual use of the Images or the licenses to use them. Unless specifically provided elsewhere in this document, no reprographic, reprint, republication or other secondary reproduction usages may be made, and usage rights are granted only for one-time.

2.3 **Return and Removal of Images:** Unless the right to archive Images has been specifically granted by the User on the front of this document, the User agrees to remove and return or destroy all digital copies of all Images. All Images shall be returned, and all digital files created by or on behalf of User containing any Images shall be delivered to Company, deleted or destroyed, within thirty (30) days after the later of: (1) the final licensed use as provided in this document, and (2) if not used, within thirty (30) days after the date of the expiration of the license. Failure to return Images on time will result in a loss to the Company due to his resulting inability to license such Images. The client, therefore, agrees to pay a holding fee of five dollars and fifty cents (USD 5.50, equivalent to Indian rupees at the prevailing exchange rate at the time of breach) per day for each image from the return date until the day on which the Images are received by the Company. The client assumes full liability for its principals, employees, agents, affiliates, successors, and assigns (including without limitation independent contractors, messengers, and freelance researchers) for any loss, damage, delay in returning, or deleting failure to return, or misuse of the Images.

2.4 **Loss or Damage:** Reimbursement by the user for loss or damage of each original photographic transparency or film negative ("Original[s]") shall be for One Thousand Five Hundred Dollars (USD1,500), or such other amount if a different amount is set forth next to the lost or damaged item on the reverse side or attached schedule. Reimbursement for loss or damage of each non-digital duplicate image shall be in the amount of Two Hundred Dollars (USD200). Reimbursement for loss or damage of each digital file shall be in the amount of Two Hundred Dollars (USD200). Reimbursement by Client for loss or damage of each item other than as specified above shall be in the amount set forth next to the item on the reverse side or attached schedule. The company and user agree that said amount represents the fair and reasonable value of each item and that Company would not sell all rights to such items for less

than said amount. The user understands that each Original is unique and does not have an exact duplicate, and maybe impossible to replace or re-create. The user also understands that its acceptance of the stipulated value of the Images is a material consideration in the Company's acceptance of the terms and prices in this agreement.

2.5 **Alterations:** User will not make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images, alone or with any other material, including making digital scans unless specifically permitted on the reverse side. User may not make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images, alone or with any other material, including making digital scans unless specifically permitted on the reverse side, except that cropping and alterations of contrast, brightness, and color balance, consistent with reproduction needs may be made.

2.6 **Transfer and Assignment:** User may not assign or transfer this agreement or any rights granted under it. This agreement binds User and inures to the benefit of the Company, as well as their respective principals, employees, agents, and affiliates, heirs, legal representatives, successors, and assigns. Users and its principals, employees, agents, and affiliates are jointly and severally liable for the performance of all payments and other obligations hereunder. No amendment or waiver of any terms is binding unless outlined in writing and signed by the parties.

2.7 **Use and Pricing of Images:** The pricing for the Images are based on several factors, including size, placement, duration of use, and geographic distribution of the Image(s). Here are some examples of Image uses for which you will need an Image License:

- Website, online and multimedia designs;
- Online or Electronic Distribution Systems, including web page design;
- Advertising and promotional campaigns, presentations, and brochures;
- Book jackets and interior pages;
- Packaging for software, music albums, CDs, cassettes, and videotapes;
- Calendars, greeting cards, and posters;
- Trade show displays, billboards, and exhibits;
- Products for resale in any quantity;
- Broadcast and Theatrical Exhibitions;
- Publications and Products; and

- Any other use with prior approval, in writing, by Company.

### **3. ELIGIBILITY AND GRANT OF LICENSE:**

- 3.1 **Grant of Rights:** Unless otherwise specified in the invoice generated by Company Licensed Material obtained from Company is licensed to user on a personal, non-transferable, one-time, non-exclusive basis, and is strictly limited to the use, medium, period, print run, placement, size of Licensed Material, territory, and all other restrictions indicated in the invoice or contained in this Agreement and are licensed only for use for one year from the date of the invoice.
- 3.2 User agrees to pay the payment amount for the license of the Image and Licensed Material as described in the invoice and this Agreement. The licensee is required to pay for all Licensed Material that you obtained, regardless of whether they are used.
- 3.3 **Limited Use License:** The limited license granted is personal, nonexclusive, non-sublicensable, non-transferable, and non-assignable; the work produced incorporating the Licensed Material must be for the User's own use. If the user is licensing an Image on behalf of, or for use by a client, that client must be the sole end user of the work. Users may not sell, rent, loan, give, sublicense or otherwise transfer to anyone the Image or any right to reproduce the Image or Licensed Material.
- 3.4 **Permission Needed:** Images often depict a variety of subject matter: people, buildings, art, animals, etc. When you license an Image from a Company, you acquire only the limited right to reproduce that image. However, to use the Image you still may need: 1) the permission of the people depicted in an image and/or 2) the permission of the owners of places and things who may have rights in such material. You need to obtain additional permissions depending upon the nature and circumstance of your intended use, the material that you may add to an Image, the way that you might manipulate an Image, and the laws that may apply to your use. Generally, the Company does not license these additional rights to you when you acquire a license to use an Image. It is your responsibility to license these rights from the proper right owners or obtain legal guidance on whether your intended use requires that you obtain these rights.
- 3.5 **Unauthorized Use:** Without limitation, Licensed Material may not be utilized as a logo, trademark or service mark, or for any unlawful purpose or use, or to defame any person, or to

violate any person's right of privacy or publicity, or to infringe upon any copyright, trade name, trademark, or service mark of any person or entity, whether directly or in context or juxtaposition with the specific subject matter. Unauthorized use of these Images shall entitle Company to exercise all rights and remedies under applicable laws, including immediate and permanent injunctions preventing further use and monetary damages against all users and beneficiaries of the use of such Images. Company in its sole discretion reserves the right to bill you (and you hereby agree to pay) ten (10) times the normal license fee for any unauthorized use, in addition to any other fees, damages, or penalties the Company may be entitled to under this Agreement or applicable law.

#### **4. COPYRIGHT IS OWNED BY COMPANY:**

All rights, title, and interest throughout the world, including copyright and all other intellectual property rights, whether currently or in the future recognized, in the Licensed Material is owned by the Company. No ownership or copyright in any Licensed Material shall pass to Licensee by the issuance of the License contained in this Agreement. Except as expressly outlined in this Agreement, Company grants users no right or license, express or implied, to the Licensed Material. Upon demand, the user shall immediately assign to Company any copyright of or to the Licensed Material arising out of the publication of the Licensed Material. No copyright information shall be removed from any digital file.

#### **5. ELIGIBILITY:**

- 5.1 To register as a member of the Site, you must be of sound mind. By using this Site, you represent and warrant that you have the right, authority, and legal capacity to enter into this Agreement and that you are not prohibited or prevented by any applicable law for the time being in force or any order or decree or injunction from any court, tribunal or any such competent authority restraining you from availing our Services or purchasing Products. You also agree to abide by all of the terms and conditions of this Agreement. If at any time the Company believes (in its sole discretion) or has any reason to believe that you are not eligible to become a member or that you have made any misrepresentation about your eligibility, the Company reserves the right to forthwith terminate your subscription and/or your right to use the Service or purchase Products, without any refund to you, for any of your unutilized subscription fees, if any.

- 5.2 Users represent that they are not minors (16 or above) and are not persons with any criminal record nor barred by the government from receiving any services under any law in India. User agrees to the following:
- Provide accurate, current, true, and complete information about them while registering on our Website or App.
  - Maintain and promptly update your profile and registration data to keep it accurate, true, current, and complete.
- 5.3 Under an event of information being found incomplete, false, or inaccurate, we reserve the right to delete, terminate or deactivate your account without any notification or intimation and refuse any current or future use of our Website and/or App.
- 5.4 When you register on our Website and/or App, you will be required to choose a username and a password. You are responsible for maintaining the confidentiality of your password and account information. You must immediately notify the Company of any unauthorized use of a password or account or any other security breach.
- 5.5 You are liable for maintaining the confidentiality of any login information associated with any account you use to access the Services or purchase Products, and thus you are also responsible for all activities that occur on your account. You will be solely responsible for any consequences, losses, or damages that the Company may directly or indirectly incur or suffer due to any illegal or unauthorized activities conducted by you or persons engaged by you.

## **6. PROPRIETARY RIGHTS AND TRADEMARKS:**

- 6.1 The Site contains copyright material, trademark, and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music, and sound. All proprietary material displayed on the Site or provided on-demand is copyrighted as a collective work either owned by the Company or licensed from a third party.
- 6.2 The Company owns the copyright in the selection, coordination, arrangement, and enhancement of such proprietary material. Users may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit the content, in whole or in part. Users may download copyrighted material for User's personal use only. Except as otherwise expressly permitted under copyright law, no copying, redistribution, retransmission, publication, or commercial exploitation of downloaded material will be permitted without the express permission of the Company. In the event of any permitted copying, redistribution, or publication of copyrighted material, no changes in or deletion of



author attribution, trademark legend or copyright notice shall be made. Users acknowledge that it does not acquire any ownership rights by downloading copyrighted material.

## **7. DISCLAIMER AND LIABILITY:**

- 7.1 Users expressly agree that the use of Services or purchase Products is at their sole risk. Neither the Company, its affiliates nor any of its respective employees, agents, service providers, third-party agents warrant that the Company's Services will be uninterrupted, faulty, or error-free. The Company makes no representations about the accuracy of the information contained in the material provided and graphics on this Website for any purpose. The Company hereby disclaims all warranties and conditions concerning this information, including all implied warranties and conditions of merchantability, fitness for any particular purpose, title, and non-infringement. In no event, shall the Company be liable to any party for any direct, indirect, special, or other consequential damages for any use of the Services, the information, or on any other hyperlinked website, including, without limitation, any lost profits, business interruption, loss of programs or other data on your information handling system or otherwise, even if the Company is expressly advised of the possibility of such damages. The Company is not responsible for any incorrect or inaccurate content provided to the user or service provider whether on the Site or otherwise. The user and service provider must use its discretion before availing Services of the Company.
- 7.2 User agrees and assures to not hold the Company, its employees, agents, directors, officer bearers, managers, investors, donors, and licensors responsible, for and against all losses, whether financial, intellectual, mental, physical (including misuse of debit/credit card and online banking facilities) or otherwise, expenses, damages, and costs, including reasonable attorneys' fees, resulting from use of the Site or Services. Despite regular controls, the Company is not liable for any mishap or misuse of financial or personal information of the service provider. We reserve the right to be indemnified for the above mentioned. In such an event, the User shall provide us with such cooperation as is reasonably requested by us.
- 7.3 The Company is not responsible for any problems or technical malfunction of any telephone network or lines, computer on-line systems, servers or providers, computer equipment, software, failure of email or players on account of technical problems or traffic congestion on the Internet or at any website or combination thereof, including injury or damage to users and Subscribers or any other person's computer related to or resulting and/or in connection with the Company's service. The Company expressly disclaims any liability or responsibility



whatsoever and howsoever arising as a result of any content of study material made available to subscribers.

- 7.4 The Company does not warrant or guarantee that the information contained on the Site is accurate or complete, and hereby disclaims any and all liability to any person for any loss or damage caused by errors or omission, whether such errors or omissions result from negligence, accident or any other cause. Before availing Services or purchasing Products, user discretion is advised. The Company further assumes no liability for the interpretation and/or use of the information contained on this Site, nor does it offer a warranty of any kind, either expressed or implied. Also, we do not guarantee that the use of our Services, Products, and/or information provided on the Site will meet your needs or requirements. We do not also guarantee that the information obtained by using our Services will be accurate.
- 7.5 The Company does not commit to update the information or materials on this Website which, as a result, may be out of date. Neither we, nor our officers, directors, employees, agents, or affiliates are responsible or liable for any loss damage (including, but not limited to, actual, consequential, or punitive), liability, claim, or other injury or cause related to or resulting from any information provided by us. The Company reserves the right to revise these terms at any time. The user is responsible for reviewing this page from time to time to ensure compliance with the then-current terms and legal restrictions because they will be binding upon them.
- 7.6 Force majeure: the Company will not be responsible for any failure or delay in performance due to circumstances beyond its reasonable control, including, without limitation, acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, service outages resulting from equipment and/or software failure and/or telecommunications failures, power failures, network failures, failures of third-party service providers (including providers of internet services and telecommunications). The performance of this Agreement shall then be suspended for as long as any such event shall prevent the affected party from performing its obligations under this Agreement.

## **8. INDEMNIFICATION AND CONFIDENTIALITY:**

- 8.2 Users shall be responsible for obtaining and maintaining all telephone, computer hardware, software, and other equipment needed for access to and use of the Website and all charges related thereto shall be borne by the concerned parties.
- 8.3 The Company will not be liable and you agree not to claim for any direct, indirect, incidental, exemplary, or consequential loss or damages which may be incurred by user or service

provider as a result of using our Services or purchasing our products, or as a result of any changes, data loss or corruption, cancellation, loss of access, or downtime to the full extent, and that in such conditions limitation of liability laws and clause apply.

- 8.4 **Confidentiality:** During this Agreement, the Company may provide you with certain pricing, technical, marketing, and other confidential information. you acknowledge that such confidential information encompasses valuable trade secrets and is proprietary to the company, and you shall maintain the confidentiality of any "confidential information" that the company may provide to you, and you shall not use or disclose the same without the prior written consent of the Company.

## 9. **LIMITATION OF LIABILITY:**

Except for any liability which cannot by law be excluded or limited, Company shall not be liable to you or any other third party claiming through it or you for direct, indirect, incidental, special, or consequential damages or lost profits arising out of, or relating to the use or inability for your use of the Licensed Material, whether framed as a breach of contract, warranty of merchantability, title, non-infringement, or fitness for a particular purpose, in tort, contract, failure of essential purpose, or otherwise. In no event shall the Company's liability for your use of any Licensed Material provided hereunder exceed the amount invoiced to the user for the use of that Licensed Material.

## 10. **PAYMENT SECURITY:**

- 10.1 The Site has taken strong measures to protect the security of your personal information and to ensure that your choices for its intended use are honored. We take strong precautions to protect your data from loss, misuse, unauthorized access or disclosure, alteration, or destruction. You also have a significant role in protecting your information. No one can see or edit your personal information without knowing your user name and password, so do not share these with others.
- 10.2 Since this is an intermediary and an 'information only site', we do not guarantee your e-commerce transactions to be entirely safe and secure. When you place orders through our website or online payment gateway service providers ("**OPGSPs**"), listed on the Site, you must ensure that you agree to the terms and conditions of the said OPGSPs agreement. The Company shall not be liable should there be a discrepancy in refund, loss or misuse of credit card details, hacking of sensitive monetary information.

10.3 Resolution of all payment related complaints shall remain the responsibility of OPGSPs concerned. Users must read and agree to the privacy policy and online security framework of respective OPGSPs listed on the Site before transacting. We do not take responsibility for any security lapse, should infringement or violation happen as a result of you accessing an OPGSP listed on the Site.

**11. JURISDICTION:**

The Site can be accessed by most countries around the world. By accessing the Site you summarily agree to the exclusive jurisdiction of courts in Chandigarh, India only.

